

Message Text

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O 132306Z DEC 76
FM SECSTATE WASHDC
TO AMEMBASSY LISBON IMMEDIATE

S E C R E T STATE 302437

E.O. 11652: GDS

TAGS: EFIN, EAID, PO

SUBJECT: AGREEMENT BETWEEN THE UNITED STATES TREASURY
EXCHANGE STABILIZATION FUND AND THE BANK OF X

1. FOLLOWING IS DRAFT TEXT OF GOLD SWAP AGREEMENT. EMBASSY
IS AUTHORIZED TO PASS THIS DOCUMENT, ON CONFIDENTIAL BASIS,
TO GOVERNMENT OF PORTUGAL.

2. BEGIN TEXT:

THE UNITED STATES TREASURY EXCHANGE STABILIZATION FUND
(HEREINAFTER CALLED THE ESF) AND THE BANK OF X HEREBY
AGREE:

1. NATURE OF CREDIT EXTENDED

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THE ESF IS PREPARED TO EXTEND CREDIT IN THE FORM OF
GENERAL DEPOSITS OF GOLD BY THE ESF WITH THE BANK OF X.

2. PRIOR CONSULTATIONS

EACH GENERAL DEPOSIT SHALL BE MADE ONLY AFTER PRIOR
CONSULTATIONS BETWEEN THE ESF AND THE BANK OF X.

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3. CORRECTION OF UNDERLYING ECONOMIC CONDITIONS

EACH GENERAL GOLD DEPOSIT SHALL BE PROVIDED FOR THE
PURPOSE OF TEMPORARY BALANCE OF PAYMENTS FINANCING AND

SHALL BE AVAILABLE ONLY IF THE SECRETARY OF THE TREASURY OF THE UNITED STATES (HEREINAFTER CALLED THE SECRETARY) DETERMINES THAT THE GOVERNMENT OF X IS TAKING ALL APPROPRIATE FISCAL, MONETARY, AND OTHER MEASURES TO ATTAIN THE OBJECTIVES OF ECONOMIC STABILIZATION AND CORRECTION OF X'S BALANCE OF PAYMENTS DIFFICULTIES. (EACH SUCH DETERMINATION SHALL BE MADE WITH REFERENCE TO THE UNDERTAKINGS BY X SET FORTH IN THE LETTER TO THE SECRETARY DATED DECEMBER , 1976.)

4. GENERAL GOLD DEPOSITS NOT TO EXCEED 2.5 MILLION OUNCES

GENERAL GOLD DEPOSITS BY THE ESF WITH THE BANK OF X UNDER THIS AGREEMENT SHALL NOT AT ANY TIME EXCEED 2.5 MILLION TROY OUNCES OF FINE GOLD.

5. TOTAL OF GENERAL GOLD DEPOSITS NOT TO EXCEED NET CUMULATIVE GOLD SALES

THE SECRETARY SHALL MAKE A GENERAL GOLD DEPOSIT REQUESTED BY THE BANK OF X ONLY AFTER RECEIPT OF WRITTEN (INCLUDING TELEX OR CABLE) CERTIFICATION FROM THE BANK OF X THAT X'S GOLD SALES IN THE PRIVATE MARKET, AFTER THE DATE OF THIS AGREEMENT, NET OF ANY GOLD PURCHASES BY X IN THE PRIVATE GOLD MARKET AFTER SUCH DATE, ARE NOT LESS THAN THE TOTAL NUMBER OF OUNCES OF GOLD (A) ON GENERAL DEPOSIT BY THE ESF WITH THE BANK OF X AT THE TIME OF THE REQUEST AND (B) TO BE DEPOSITED BY THE ESF, PURSUANT TO THE REQUEST, WITH THE BANK OF X UNDER THIS AGREEMENT.

6. ESTABLISHING GENERAL GOLD DEPOSITS OF THE ESF WITH THE BANK OF X

THE SECRETARY, ON BEHALF OF THE ESF, SHALL ESTABLISH A GENERAL DEPOSIT OF GOLD WITH THE BANK OF X BY
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INSTRUCTING THE FEDERAL RESERVE BANK OF NEW YORK (HEREINAFTER CALLED THE RESERVE BANK) TO: (A) DEBIT THE GENERAL ACCOUNT NO. OF THE ESF MAINTAINED AT THE RESERVE BANK, AND (B) CREDIT THE ACCOUNT AT THE RESERVE BANK IN THE NAME OF "BANK OF X" WITH NOT MORE THAN A SPECIFIED NUMBER OF TROY OUNCES OF FINE GOLD.

7. SPECIAL GOLD DEPOSITS BY THE BANK OF X WITH THE ESF

THE SECRETARY SHALL ISSUE THE INSTRUCTIONS REFERRED TO IN PARAGRAPH 6 ABOVE ONLY AFTER RECEIVING NOTIFICATION FROM RESERVE BANK THAT, IN ACCORDANCE WITH INSTRUCTIONS FROM THE BANK OF X, RESERVE BANK HAS CREDITED A SPECIAL

CUSTODIAL ACCOUNT OF THE BANK OF X WITH THE ESF WITH A CERTAIN NUMBER OF TROY OUNCES OF FINE GOLD WHICH SHALL NOT BE LESS THAN THE NUMBER OF TROY OUNCES OF FINE GOLD TO BE HELD AS A GENERAL DEPOSIT FOR THE ESF BY THE BANK OF X UNDER PARAGRAPH 6 ABOVE. GOLD DEPOSITED BY THE BANK OF X WITH THE SPECIAL CUSTODIAL ACCOUNT OF THE ESF SHALL BE SUBJECT TO WITHDRAWAL BY THE BANK OF X AS PROVIDED IN PARAGRAPHS 12 AND 13 BELOW.

8. REPRESENTATIONS WITH RESPECT TO SPECIAL GOLD DEPOSITS

THE BANK OF X REPRESENTS AND WARRANTS THAT: (1) ALL GOLD DEPOSITED WITH THE SPECIAL CUSTODIAL ACCOUNT OF THE BANK OF X WITH THE ESF PURSUANT TO PARAGRAPH 7 SHALL AT THE TIME OF SUCH DEPOSIT BE BENEFICIALLY AND LEGALLY OWNED BY THE BANK OF X; (2) AT SUCH TIME AND SO LONG THEREAFTER AS SUCH GOLD REMAINS ON DEPOSIT IN THE SPECIAL CUSTODIAL ACCOUNT, IT SHALL BE SUBJECT TO NO LIEN, ENCUMBRANCE, CHARGE, RIGHT, TITLE, OR INTEREST OF, OR IN FAVOR OF ANY OTHER PARTY ;

OF GOLD IN THE SPECIAL CUSTODIAL ACCOUNT AS PROVIDED IN PARAGRAPH 7 AND THE RIGHT OF THE ESF TO TRANSFER THE GOLD THEREIN TO THE GENERAL ACCOUNT OF THE ESF AS PROVIDED IN PARAGRAPH 14 OF THIS AGREEMENT SHALL CONSTITUTE A FIRST AND PRIOR LIEN THEREON.

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9. ESTABLISHING SPECIAL CUSTODIAL DEPOSITS OF GOLD WITH THE ESF

THE BANK OF X SHALL ESTABLISH A SPECIAL CUSTODIAL ACCOUNT OF GOLD WITH THE ESF BY INSTRUCTING THE RESERVE BANK TO: (A) DEBIT THE ACCOUNT "BANK OF X" MAINTAINED AT RESERVE BANK AND (B) CREDIT THE "SPECIAL CUSTODIAL ACCOUNT -- BANK OF X" OF THE ESF MAINTAINED AT RESERVE BANK WITH NOT LESS THAN THE SPECIFIED NUMBER OF TROY OUNCES OF FINE GOLD.

10. TERM OF GENERAL DEPOSITS

DEPOSITS MADE BY THE SECRETARY FOR THE ACCOUNT OF THE ESF PURSUANT TO PARAGRAPH 6 ABOVE CAN BE WITHDRAWN FROM THE BANK OF X UPON REQUEST BY THE SECRETARY TO THE BANK OF X. REQUESTS BY THE SECRETARY TO WITHDRAW GENERAL GOLD DEPOSITS SHALL BE MADE NO LATER THAN 180 DAYS AFTER EACH DEPOSIT IS MADE, PROVIDED HOWEVER THAT ALL DEPOSITS SHALL BE WITHDRAWN BY THE SECRETARY BY JUNE , 1977. THE BANK OF X SHALL COMPLY, WITHIN TWO WORKING DAYS (NEW YORK) WITH A REQUEST FOR WITHDRAWAL OF GENERAL DEPOSITS OF GOLD MADE BY THE SECRETARY.

11. WITHDRAWING GENERAL DEPOSITS

THE BANK OF X SHALL RETURN GENERAL DEPOSITS OF GOLD TO THE ESF BY INSTRUCTING RESERVE BANK TO: (A) DEBIT THE ACCOUNT "BANK OF X" MAINTAINED AT RESERVE BANK AND (B) CREDIT THE GENERAL ACCOUNT NO. OF THE ESF MAINTAINED AT RESERVE BANK WITH NOT LESS THAN THE NUMBER OF TROY OUNCES OF FINE GOLD SPECIFIED IN THE WITHDRAWAL REQUEST MADE BY THE SECRETARY UNDER PARAGRAPH 10 ABOVE.

12. TERM OF SPECIAL DEPOSITS

UPON COMPLETION OF WITHDRAWAL OF A GENERAL GOLD DEPOSIT PURSUANT TO PARAGRAPH 11 ABOVE, THE BANK OF X MAY REQUEST THAT ITS SPECIAL DEPOSITS WITH THE ESF BE REDUCED BY NOT MORE THAN AN EQUIVALENT NUMBER OF TROY
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OUNCES OF FINE GOLD.

13. WITHDRAWING SPECIAL DEPOSITS

UPON RECEIPT OF A WITHDRAWAL REQUEST FROM THE BANK OF X IN ACCORDANCE WITH PARAGRAPH 12 ABOVE, THE SECRETARY SHALL INSTRUCT THE FRB TO:

(A) DEBIT THE "CUSTODIAL ACCOUNT -- BANK OF X" WITH THE ESF MAINTAINED AT RESERVE BANK, AND

(B) CREDIT THE ACCOUNT OF THE BANK OF X MAINTAINED AT RESERVE BANK WITH NOT MORE THAN THE NUMBER OF TROY OUNCES OF FINE GOLD SPECIFIED IN THE WITHDRAWAL REQUEST MADE BY THE BANK OF X.

14. TRANSFER OF GOLD FROM SPECIAL CUSTODIAL DEPOSITS TO THE ESF GENERAL ACCOUNT

IF THE BANK OF X DOES NOT COMPLY IN TWO WORKING DAYS (NEW YORK) WITH A REQUEST MADE BY THE SECRETARY UNDER PARAGRAPH 10 ABOVE, THE SECRETARY SHALL TRANSFER NOT LESS THAN THE AMOUNT OF GOLD SPECIFIED IN SUCH WITHDRAWAL REQUEST FROM THE SPECIAL CUSTODIAL ACCOUNT WITH THE ESF TO THE ESF'S GENERAL ACCOUNT. THIS TRANSFER WILL BE EFFECTED BY THE SECRETARY INSTRUCTING RESERVE BANK TO:

(A) DEBIT THE "SPECIAL CUSTODIAL ACCOUNT -- BANK OF X", AND

(B) CREDIT ACCOUNT NO. OF THE ESF WITH NOT LESS THAN THE NUMBER OF TROY OUNCES OF FINE GOLD SPECIFIED IN SUCH WITHDRAWAL REQUEST.

AT THE SAME TIME, THE SECRETARY SHALL REVOKE HIS EARLIER REQUEST UNDER PARAGRAPH 10 ABOVE TO WITHDRAW GOLD ON GENERAL DEPOSIT AT THE BANK OF X AND SHALL NOTIFY THE BANK OF X THAT THE ESF NO LONGER HAS ANY RIGHT, TITLE, OR CLAIM TO THE GOLD ON DEPOSIT WITH THE BANK OF X TO WHICH THE REVOCATION APPLIES.

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15. FEE

THE BANK OF X SHALL PAY TO THE ESF, IN DOLLARS, A FEE ON ANY GOLD DEPOSITED BY THE ESF IN GENERAL DEPOSITS WITH THE BANK OF X UNDER PARAGRAPH 6 ABOVE. THE AMOUNT OF THE FEE SHALL BE CALCULATED BY MULTIPLYING THE VALUE OF THE GOLD DEPOSITED BY THE ESF (WHICH VALUE SHALL BE 42.22 DOLLARS PER TROY OUNCE OF FINE GOLD) BY THE AVERAGE RATE OF DISCOUNT AT THE AUCTION RATE OF THE LAST ISSUE OF SIX-MONTH UNITED STATES TREASURY BILLS PRECEDING THE DATE OF DEPOSIT. THE AVERAGE RATE OF DISCOUNT SHALL BE STATED IN TWO DECIMAL PLACES AND IF SUCH DECIMAL IS NOT A MULTIPLE OF .05, IT WILL BE ADJUSTED TO THE NEXT HIGHEST MULTIPLE OF .05.

16. EXPRESSION OF AMOUNTS

--ALL INSTRUCTIONS TO RESERVE BANK UNDER THIS AGREEMENT REFERRING TO GOLD SHALL BE EXPRESSED IN NUMBER OF TROY OUNCES OF FINE GOLD IN THE AMOUNT OF 400 OUNCES OF SUCH GOLD OR MULTIPLES THEREOF. BECAUSE THE WEIGHT OF BARS OF GOLD IS NOT UNIFORM, IT IS UNDERSTOOD THAT IF THE AMOUNT OF GOLD HELD IN THE SPECIAL CUSTODIAL ACCOUNT

EXCEEDS THE AMOUNTS HELD ON GENERAL DEPOSIT WITH THE BANK OF X, AND IF THE SECRETARY MAKES A TRANSFER AS PROVIDED IN PARAGRAPH 14 ABOVE, THE PARTIES WILL MAKE APPROPRIATE ADJUSTMENTS BY MUTUAL AGREEMENT. IN ADDITION, IF AT THE TIME OF TERMINATION OF THIS AGREEMENT, SHOULD ANY AMOUNTS OF GOLD CONTINUE TO BE HELD ON DEPOSIT BY THE BANK OF X WITH THE SPECIAL CUSTODIAL ACCOUNT, THE SECRETARY SHALL INSTRUCT RESERVE BANK TO: (A) DEBIT THE "CUSTODIAL ACCOUNT -- BANK OF X" WITH THE ESF MAINTAINED AT RESERVE BANK, AND (B) CREDIT THE ACCOUNT OF THE BANK OF X MAINTAINED AT RESERVE BANK WITH THAT NUMBER OF TROY OUNCES OF FINE GOLD.

17. COMPLIANCE WITH OTHER AGREEMENTS

THE BANK OF X REPRESENTS THAT NO PROVISION OF THIS AGREEMENT NOR ANY TRANSACTION CONTEMPLATED BY THIS

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AGREEMENT SHALL CONSTITUTE A VIOLATION OF ANY OTHER
AGREEMENT TO WHICH THE BANK OF X OR THE REPUBLIC OF X
IS A PARTY.

18. PERIOD OF AGREEMENT

THIS AGREEMENT WILL BE TERMINATED JUNE , 1977.
HOWEVER, IN THE EVENT OF EXIGENT CIRCUMSTANCES, AND
UPON MUTUAL AGREEMENT OF THE PARTIES, CREDIT MAY BE
PROVIDED ON THE TERMS DESCRIBED IN PARAGRAPHS 1-16
ABOVE FOR AN ADDITIONAL PERIOD OF NOT MORE THAN 180 DAYS
PROVIDED HOWEVER THAT GENERAL DEPOSITS BY THE ESF WITH
THE BANK OF X UNDER PARAGRAPH 6 ABOVE SHALL BE WITH-
DRAWN NO LATER THAN DECEMBER , 1977.

DONE IN DUPLICATE THIS DAY OF DECEMBER, 1976.

UNDER SECRETARY OF THE TREASURY FOR THE BANK OF X
FOR MONETARY AFFAIRS
END TEXT
KISSINGER

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<< END OF DOCUMENT >>

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